

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AGRI STATS, INC.,

Defendant.

Case No.: 0:23-cv-03009-JRT-JFD

**DECLARATION OF ERIC SCHOLER IN SUPPORT OF
AGRI STATS INC.'S MOTION TO TRANSFER VENUE**

I, Eric Scholer, declare as follows:

1. I am over the age of eighteen (18) and am not a party to this action. If called as a witness, I could and would competently testify to the following based upon my own personal knowledge.
2. I am the President of Express Markets, Inc., a wholly-owned subsidiary of Agri Stats, Inc. ("Agri Stats"), and Vice President of Operations for Agri Stats.
3. Agri Stats was founded in 1985. Agri Stats is an Indiana corporation with a single office located in Fort Wayne, Indiana. Agri Stats has approximately 70 employees who work in the Fort Wayne office or remotely. None of Agri Stats' employees live or regularly work in Minnesota.
4. Agri Stats is a benchmarking company that provides reports and services to broiler chicken producers to identify areas in which they can improve the efficiency of their respective operations.

5. Agri Stats began offering its benchmarking reports and services to broiler chicken producers in 1985. The reports and the information contained in the reports have remained largely unchanged since their initial offering.

6. Agri Stats previously offered turkey and pork benchmarking reports. These reports are modeled after the broiler chicken reports, with consistent format, data, and metrics. Agri Stats began offering benchmarking reports to turkey producers in 2001 and to pork producers in 2007.

7. Agri Stats currently produces “Swine Live” reports, which concern the growth of hogs. These reports differ from the pork reports which concern pork products destined for consumption. None of the current participants in Agri Stats’ Swine Live reports are named co-conspirators in either *Pork* or the Government’s complaint.

8. Turkey and pork processors began to withdraw from their subscriptions to Agri Stats’ benchmarking reports after the complaint in *In re Broiler Chicken* was filed. Agri Stats stopped offering benchmarking reports for turkey and pork processors in 2019.

9. The continuous litigation against Agri Stats across numerous courts over the past decade has created a devastating financial burden on Agri Stats.

10. Koch Foods, headquartered in Park Ridge, IL, is a current subscriber to the broilers reports.

11. Hormel, headquartered in Austin, MN, is a pork and turkey producer and ceased subscribing to the pork and turkey reports in 2017. Jennie-O, headquartered in Willmar, MN, ceased subscribing to the pork and turkey reports in 2017. Hormel and Jennie-O are pork and turkey producers and never subscribed to broilers reports.

12. Gold'n Plump Poultry subscribed to the broiler reports until it was acquired by Pilgrim's Pride in 2016. Gold'n Plump Poultry was a broiler producer and never subscribed to pork or turkey reports.

13. Sparboe Farms subscribed to Agri Stats' egg reports and never subscribed to any of the pork, turkey, or broiler chicken reports challenged in the Complaint.

14. The United States Department of Justice ("DOJ") issued Agri Stats a Civil Investigative Demand ("CID") in 2010. DOJ sent Agri Stats a letter in 2012, stating that it was closing its investigation of Agri Stats. That letter is attached as Exhibit A. DOJ made no requests to Agri Stats to change its benchmarking reports. DOJ issued Agri Stats another CID in 2022.

15. Minnesota, California, North Carolina, and Tennessee have never requested any documents or information from Agri Stats about its business or communicated with Agri Stats in any way about any antitrust concerns.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 8 day of November 2023 in Fort Wayne, Indiana.


Eric Scholer